

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KENYON B. FITZGERALD, JR., PETER
SCOVILLE WELLS, SIDNEY SILLER,
and DISABLED AMERICAN
VETERANS DEPARTMENT OF NEW
YORK, INC.,

Plaintiffs,

v.

WADE F. B. THOMPSON, ELIHU ROSE,
ARIE L. KOPELMAN, STEPHEN LASH,
EDWARD KLEIN, REBECCA
ROBERTSON, KIRSTEN REOCH,
CHARLES GARGANO, WILLIAM
SHERMAN, CAROL BERENS, JOHN
DOE, MARY ROE and SEVENTH
REGIMENT ARMORY
CONSERVANCY, INC.,

Defendants.

Case No. 07 CIV 6851 (BSJ) (DCF)

**ORAL ARGUMENT
REQUESTED**

NOTICE OF MOTION

PLEASE TAKE NOTICE THAT, pursuant to Federal Rules of Civil Procedure 12(b)(6), upon the accompanying memorandum of law and the annexed affirmation of Peggy S. Chen and the exhibits attached thereto, and all other papers and proceedings herein, defendants Wade F.B. Thompson, Elihu Rose, Arie L. Kopelman, Stephen Lash, Edward Klein, Rebecca Robertson, Kirsten Reoch and the Seventh Regiment Armory Conservancy, Inc. will move this Court, before the Honorable Barbara S. Jones, United States District Judge for the Southern District of New York, at Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York, on October 4, 2007, for an order dismissing with prejudice all claims in the Complaint, and for such other and further relief as the Court may deem just and proper.

Dated: October 4, 2007
New York, New York

PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP

By: /s/ Lewis R. Clayton

Lewis R. Clayton
Peggy S. Chen
Barbara Llanes

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Attorneys for Defendants Wade F.B. Thompson, Elihu Rose, Arie L. Kopelman, Stephen Lash, Edward Klein, Rebecca Robertson, Kirsten Reoch and the Seventh Regiment Armory Conservancy, Inc.